

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2006-2173-MSW-E TCEQ ID: RN104026737 CASE NO.: 31940
RESPONDENT NAME: LORRAINE DONALDSON

Page 1 of 2

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input checked="" type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: 5401 Bunny Trail Road, Killeen, Bell County</p> <p>TYPE OF OPERATION: Unauthorized municipal solid waste site located on on real property</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There was one complaint regarding a fish kill in a pond located on adjacent property. There is no record of additional pending enforcement actions regarding this location.</p> <p>INTERESTED PARTIES: A complaint was received but the complainant has not indicated that they wish to protest this action or speak at Agenda. No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on April 21, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST:</p> <p style="margin-left: 20px;">TCEQ Attorney: Ms. Kathleen C. Decker, Litigation Division, MC 175, (512) 239-6500 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873</p> <p style="margin-left: 20px;">TCEQ Enforcement Coordinator: Mr. Marlin Bullard, Waste Enforcement Section, MC R-9, (254) 761-3038</p> <p style="margin-left: 20px;">TCEQ Regional Contact: Mr. Frank Burleson, Waco Regional Office, MC R-9, (254) 761-3001</p> <p style="margin-left: 20px;">Respondent: Ms. Lorraine Donaldson, 16424 Clearwater Circle, Montgomery, Texas 77356</p> <p style="margin-left: 20px;">Respondent's Attorney: Not represented by counsel on this enforcement matter.</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input checked="" type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: October 25, 2004</p> <p>Dates of Investigations Relating to this Case: October 27, 2004 and October 12, 2006</p> <p>Date of NOE Relating to this Case: November 16, 2006</p> <p>Background Facts:</p> <p>An EDRP was filed on August 17, 2007. A signed Agreed Order was received on February 22, 2008.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>MSW:</p> <p>Failed to prevent the unauthorized disposal of municipal non-hazardous solid waste at an unauthorized site [30 TEX. ADMIN. CODE § 350.5(a)¹].</p>	<p>Total Assessed: \$19,760</p> <p>Total Deferred: \$0</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid/Due to General Revenue: \$1,385/\$18,375</p> <p>The Respondent has paid \$1,385 of the administrative penalty. The remaining amount of \$18,375 of the administrative penalty shall be payable in thirty-five monthly payments of \$525 each.</p> <p>Site Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> 1. Immediately, cease accepting additional waste material at the Site. 2. Within 30 days: <ol style="list-style-type: none"> a. Develop and implement a plan to prevent contaminated runoff from leaving the Site and submit approval to TCEQ; and b. File a Deed Restriction in the Deed Records of Bell County, Texas, to notify the general public that 5401 Bunny Trail Road in Killeen, Bell County, Texas, has been used as a disposal site for concrete recycling waste. 3. Respond completely and adequately to all TCEQ requests for additional information within 30 days of such requests, or by any other deadline specified in writing. 4. Within 135 days, demonstrate compliance with Ordering Provisions Nos. 1 through 3 and include detailed supporting documentation including photographs, receipts, and/or other records.

¹30 Tex. Admin. Code § 350.5(s) is now found at 30 Tex. Admin. Code § 350.15(c) adopted to be effective, March 27, 2006, 31 Tex. Reg. 2502.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision December 8, 2006

TCEQ

DATES	Assigned	28-Nov-2006	Screening	6-Dec-2006	EPA Due	
	PCW	8-Jan-2007				

RESPONDENT/FACILITY INFORMATION

Respondent	Lorraine Donaldson		
Reg. Ent. Ref. No.	RN104026737		
Facility/Site Region	9-Waco	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	31940	No. of Violations	1	
Docket No.	2006-2173-MSW-E	Order Type	1660	
Media Program(s)	Municipal Solid Waste	Enf. Coordinator	Marlin Bullard	
Multi-Media		EC's Team	EnforcementTeam 8	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$65,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 10% Enhancement **Subtotals 2, 3, & 7** \$6,500

Notes Enhancement for two NOVs with the same or similar violations at this site within the past five years.

Culpability No 0% Enhancement **Subtotal 4** \$0

Notes Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction **Subtotal 5** \$0

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes The Respondent does not meet the good faith criteria.

Total EB Amounts \$43,740 **50% Enhancement*** **Subtotal 6** \$32,500
Approx. Cost of Compliance \$309,400 **Capped at the Total EB \$ Amount*

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$104,000

OTHER FACTORS AS JUSTICE MAY REQUIRE -81% **Adjustment** -\$84,240

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes Recommend reduction to prevent the processing time for this case from overly impacting the penalty amount.

Final Penalty Amount \$19,760

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$19,760

DEFERRAL 0% Reduction **Adjustment** \$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes No deferral because this is a non-expedited case.

PAYABLE PENALTY \$19,760

Screening Date 6-Dec-2006

Docket No. 2006-2173-MSW-E

PCW

Respondent Lorraine Donaldson

Policy Revision 2 (September 2002)

Case ID No. 31940

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN104026737

Media [Statute] Municipal Solid Waste

Enf. Coordinator Marlin Bullard

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	2	10%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 10%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for two NOVs with the same or similar violations at this site within the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 10%

Screening Date 6-Dec-2006

Docket No. 2006-2173-MSW-E

PCW

Respondent Lorraine Donaldson

Policy Revision 2 (September 2002)

Case ID No. 31940

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN104026737

Media [Statute] Municipal Solid Waste

Enf. Coordinator Marlin Bullard

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 330.15 (c) [formerly 330.5(a)]

Violation Description

Failure to prevent the unauthorized disposal of municipal non-hazardous solid waste at an unauthorized site, as documented during an investigation conducted on October 27, 2004 and a record review on October 12, 2006. Specifically, approximately 23,800 cubic yards of concrete waste was disposed of at 5401 Bunny Trail Road, Killeen, Bell County, a site that was not authorized to accept the waste.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		x	
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 26

770 Number of violation days

mark only one with an x	daily	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$65,000

Twenty six monthly events are recommended from the October 27, 2004 investigation date to the December 6, 2006 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$43,740

Violation Final Penalty Total \$19,760

This violation Final Assessed Penalty (adjusted for limits) \$19,760

Economic Benefit Worksheet

Respondent: Lorraine Donaldson
Case ID No.: 31940
Reg. Ent. Reference No.: RN104026737
Media: Municipal Solid Waste
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal	\$309,400	27-Oct-2004	25-Aug-2007	2.8	\$43,740	n/a	\$43,740
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to dispose of approximately 23,800 cubic yards of waste at an authorized facility at \$13 per cubic yard. Date required is the date of the investigation. Final date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$309,400

TOTAL

\$43,740

Compliance History

Customer/Respondent/Owner-Operator:	CN602504011	DONALDSON, LORRAINE	Classification: AVERAGE	Rating: 2.00
Regulated Entity:	RN104026737	DONALDSON PROPERTY	Classification: AVERAGE	Site Rating: 2.00
ID Number(s):				
Location:	5401 BUNNY TRAIL ROAD, KILLEEN, TX, 76540		Rating Date: 9/1/2006 Repeat Violator: NO	
TCEQ Region:	REGION 09 - WACO			
Date Compliance History Prepared:	January 29, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	January 29, 2002 to January 29, 2007			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Marlin Bullard Phone: (254) 761-3038

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A

B. Any criminal convictions of the state of Texas and the federal government.
N/A

C. Chronic excessive emissions events.
N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	03/02/2004	(256013)
2	11/21/2006	(516010)
3	07/07/2004	(277601)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 12/08/2003 (252480)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter A 330.5(a)[G]

Description: Illegal dumping observed at property located on Bunny Trail Road, Killeen, Texas

Date: 11/14/2003 (277601)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter A 330.5(a)[G]

Description: Illegal dumping observed at property located on Bunny Trail Road, Killeen, Texas

F. Environmental audits.
N/A

G. Type of environmental management systems (EMSs).
N/A

H. Voluntary on-site compliance assessment dates.
N/A

I. Participation in a voluntary pollution reduction program.
N/A

J. Early compliance.
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
AGAINST
LORRAINE DONALDSON;
RN104026737**

§
§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2006-2173-MSW-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Ms. Lorraine Donaldson ("Ms. Donaldson") under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE ch. 361. The Executive Director of the TCEQ, represented by the Litigation Division, and Ms. Donaldson, appear before the Commission and together stipulate that:

1. Ms. Donaldson owns and operates an unauthorized municipal solid waste site located at 5401 Bunny Trail Road, Killeen, Bell County, Texas (the "Site"). The Site involved the disposal of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges a violation of TEX. HEALTH & SAFETY CODE ch. 361 and TCEQ rules.
3. The Commission and Ms. Donaldson agree that the Commission has jurisdiction to enter this Agreed Order, and that Ms. Donaldson is subject to the Commission's jurisdiction.
4. Ms. Donaldson received notice of the violations alleged in Section II ("Allegations") on or about November 21, 2006.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Ms. Donaldson of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of nineteen thousand seven hundred sixty dollars (\$19,760.00) is assessed by the Commission in settlement of the violation alleged in Section

II ("Allegations"). Ms. Donaldson has paid one thousand three hundred eighty-five dollars (\$1,385.00) of the administrative penalty. The remaining amount of eighteen thousand three hundred seventy-five dollars (\$18,375.00) of the administrative penalty shall be payable in thirty-five monthly payments of five hundred twenty-five dollars (\$525.00) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If Ms. Donaldson fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of Ms. Donaldson to meet the payment schedule of this Agreed Order constitutes the failure of Ms. Donaldson to timely and satisfactorily comply with all of the terms of this Agreed Order.

7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Ms. Donaldson have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Ms. Donaldson has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

Ms. Donaldson is alleged to have violated 30 TEX. ADMIN. CODE § 330.5(a)¹, by failing to prevent the unauthorized disposal of municipal non-hazardous solid waste at an unauthorized site, as documented during an inspection conducted on October 27, 2004 and a record review on October

¹ 30 TEX. ADMIN. CODE § 330.5(a) is now found at 30 TEX. ADMIN. CODE § 330.15(c) adopted to be effective, March 27, 2006, 31 Tex. Reg. 2502.

12, 2006. Specifically, approximately 23,800 cubic yards of concrete waste was disposed of at 5401 Bunny Trail Road, Killeen, Bell County, Texas, a site that was not authorized to accept the waste.

III. DENIALS

Ms. Donaldson generally denies each allegation in Section II ("Allegations").

IV. ORDER

1. It is, therefore, ordered by the TCEQ that Ms. Donaldson pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Ms. Donaldson's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Ms. Lorraine Donaldson, Docket No. 2006-2173-MSW-E." to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. Ms. Donaldson shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, Ms. Donaldson shall cease accepting additional waste material at the Site.
 - b. Within 30 days after the effective date of this Agreed Order, Ms. Donaldson shall:
 - i. Develop and implement a plan to prevent contaminated runoff from leaving the Site. The plan shall be submitted for approval to:

Mr. Frank Burleson, Waste Section Manager
Waco Regional Office
Texas Commission on Environmental Quality
6801 Sanger Avenue, Suite 2500
Waco, Texas 76710-7826

- ii. File a Deed Restriction in the Deed Records of Bell County, Texas, to notify the general public that 5401 Bunny Trail Road in Killeen, Bell County, Texas has been used as a disposal site for concrete recycling waste.
- c. Respond completely and adequately to all TCEQ requests for additional information within 30 days of such requests, or by any other deadline specified in writing.
- d. Within 135 days after the effective date of this Agreed Order, Ms. Donaldson shall demonstrate compliance with Ordering Provision Nos. 2.a. through 2.c. as described below, and include detailed supporting documentation including photographs, receipts, and/or other records.

The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Mr. Frank Burleson
Waste Section Manager
Waco Regional Office
Texas Commission on Environmental Quality
6801 Sanger Avenue, Suite 2500
Waco, Texas 78710-7826

3. The provisions of this Agreed Order shall apply to and be binding upon Ms. Donaldson. Ms. Donaldson is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
4. If Ms. Donaldson fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Ms. Donaldson's failure to comply is not a violation of this Agreed Order. Ms. Donaldson shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Ms. Donaldson shall notify the Executive Director within seven days after Ms. Donaldson becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Ms. Donaldson shall be made in writing to the Executive Director. Extensions are not effective until Ms. Donaldson receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Ms. Donaldson in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Ms. Donaldson, or three days after the date on which the Commission mails notice of the Order to Ms. Donaldson, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

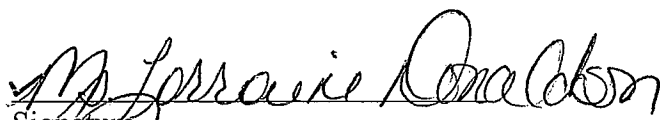
3/25/08
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

2.5-08
Date

Ms. Lorraine Donaldson
Name (Printed or typed)
Ms. Lorraine Donaldson